THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 27214 OF 1999

DATED: 27-06-2007

Between :

Ravuri Nagamani and another

… Petitioners

And

The Land Acquisition Officer cum
Revenue Divisional Officer and another

... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 27214 of 1999

ORDER :

This writ petition is filed seeking a declaration that the notification dated 01-10-1999 published under Section 4(1) of the Land Acquisition Act (for short "the Act") is arbitrary and illegal.

The petitioners herein claim to be the absolute owners and possessors of small extents of land situated in Sy.Nos.31/11A, 1A and 34/B of Pasupalli village, Ambajipet Mandal, East Godavari District. By notification dated 27-07-1999, published in the local dailies dated 01-10-1999, the land in question was sought to be acquired under the Land Acquisition Act for a public purpose i.e. for formation of a road. The urgency clause under Section 17(4) of the Act was invoked, thereby dispensing with the enquiry under Section 5-A of the Act.

The said notification is challenged in this writ petition contending that the same was not published in the locality as required under law. It is pleaded that they came to know of the proposed acquisition only when the notice dated 06-12-1999 issued under Section 9 (3) and 10 of the Act was served calling upon them to submit their objections for the purpose of fixing the compensation.

It is also contended by the petitioners that the action of the respondents in invoking the urgency clause under Section 17(4) of the Act itself is arbitrary and illegal since already a Panchayat road is existing and there is no such grave urgency for the proposed road. It is alleged that the proposed road is only to benefit two persons who are closely related to the local political leaders and no public purpose is

involved.

In the counter affidavit filed on behalf of the respondents, it is stated that the land in question forms part Ac.0.22 cents of land classified in the Revenue record as Government dry which is being used as a path way since long time. The acquisition of said land is essential for formation of a road from Pasupalli village to Madupalli village of Ainavilli Mandal, and inevitable. It is further stated that the draft notification under Section 4(1) of the Act was published in the locality on 01-10-1999 by beating tom-tom and the same was also published in the news papers-Eenadu, Deccan Cronicle on 01-10-1999 itself. Thereafter, the declaration under Section 6 of the Act was published on 05-10-1999. Pursuant to the notices under Section 9(3) and 10 of the Act, some of the land owners attended the enquiry on 21-12-1999 and deposed that they have no objection for the acquisition. The Land Acquisition Officer has issued notices to all the land owners to receive 80% of the advance compensation and the said notices were served on the land owners who expressed no objection for acquisition and the notified land was taken possession on 24-12-1999 in the presence of the mediators.

I have heard the learned counsel for both the parties and perused the material on record.

The petitioners did not file any affidavit in reply nor any material is placed before this Court contradicting the specific version of the respondents in the counter affidavit that the notification under Section 4(1) of the Act and the declaration under Section 6 of the Act were duly published in the locality as well as in the news papers having circulation in the locality. It is also the specific case of the respondents that 80% of the land value was paid to some of the land owners who attended the enquiry and accepted the amount and the possession of the land was taken after payment of 80% of the land value.

Though the learned counsel for the petitioner contended that by virtue of Section 11A of the Act, the entire proceedings should stand

lapsed, I do not find any substance in view of the ratio laid down by the Division Bench of this Court in ***Government of Andhra Pradesh v. Mohd.Moinuddin Hussan***[1]***,*** wherein it was held that Section 11A of the Act does not apply to the cases where Section 17 (4) of the Act was invoked.

In the circumstances, the impugned action of the respondents cannot be held to be either arbitrary or illegal or in contravention of the statutory provisions.

The writ petition being devoid of any merit is accordingly dismissed. No costs.

G. ROHINI, J

Date 27-06-2007
KLP

[1] 1998 (4) ALD 554 DB